THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

HON'BLE Mr. JUSTICE R. SUBHASH REDDY

Writ Petition No.2554 of 2001

FRIDAY, THE SIXTH DAY OF JULY
TWO THOUSAND AND SEVEN

Between:

Sri Sunkari Sree Ramulu, S/o. late Chinna Appalanaidu, aged 69 years, Occ: Landlord, R/o. Gantyada Village & Mandal, Vizianagaram District, and another.

... Petitioners

And

The Land Acquisition Officer-cum-Revenue Divisional Officer, Vizianagaram Revenue Division, Vizianagaram.

... Respondent

THE HON'BLE MR JUSTICE R.SUBHASH REDDY

WRIT PETITION NO : 2554 of 2001

ORDER:

This Writ Petition is filed seeking Writ of Mandamus to declare the order dated 30-01-2001 in Proceedings Rc.No.9563/99/P passed

by the respondent as illegal and arbitrary, and, for consequential direction to the respondent to refer the dispute raised by the petitioners to the competent Civil Court under Section 18 of the Land Acquisition Act, 1894.

The petitioners were the owners and possessors of the land admeasuring Ac.2.90 cents covered by S.Nos. 84/1, 84/5 and 84/6, and, Ac.4.46 cents covered by S.No.84/7 situated in Gantyada village and Mandal of Vizianagaram District. The said land with its tree growth was notified under the provisions Land Acquisition Act, 1894 for the purpose of providing house sites to the weaker sections and notification to that effect was issued on 20-1-1996. After following the due procedure, Award was passed on 30-61996 under Section 11 of the Act by fixing the compensation at the rate of Rs.23,000/- per acre. Consequent to passing of the Award, notices were issued to the petitioners as contemplated under Section 12(2) of the Land Acquisition Act, 1894, which were served on them on 25-10-1996. Thereafter, the petitioners, disputing the quantum of compensation fixed, filed representation dated 10-11-1996 on 13-11-1996 seeking reference under Section 18 of the Land Acquisition Act, 1894 for fixation of proper compensation. On earlier occasion also, the petitioners approached this Court questioning the action on the part of the respondents in not referring their claim to the Civil Court in Writ Petition No. 10051 of 2000, which was dismissed by this Court by order dated 14-11-2000. As against the same, the petitioners preferred Writ Appeal No. 1622 of 2000, which was allowed by a Division Bench of this Court by judgment dated 12-12-2000, holding that once an application is filed under Section 18 of the Act, it is obligatory on the part of the authorities to consider the same and pass appropriate

orders. Consequent to the said direction, impugned order dated 30-1-2001 is passed.

By impugned order, the claim of the petitioners to refer the matter to Civil Court under Section 18 of the Land Acquisition Act was rejected mainly on two grounds; one is that, in the register maintained for the applications under Section 18 of the Act, there was no attestation of the Land Acquisition Officer, and, the other ground is that, in the acquittance register, particulars were not recorded by the Land Acquisition Officer. Ultimately, in the impugned order it is stated that in view of the earlier rejection by the Land Acquisition Officer, no reference can be ordered.

The ground, on which the claim of the petitioners was rejected, is *ex facie* illegal, and also runs contrary to the directions issued by the Division Bench of this Court in Writ Appeal No. 1622 of 2000. In this case, it is to be seen that, after the award was passed on 30-6-1996, the petitioners had filed application dated 10-11-1996 on 13-11-1996 seeking reference and the same is within the stipulated time from the date of service of notices issued under Section 12(2) of the Land Acquisition Act, 1894. Even with regard to protest, while receiving the compensation fixed in the Award, there is no specific procedure or form for recording the protest, and, the very fact of filing the application by the interested persons under Section 18 of the Act will lead to an inference of the fact that interested persons have not accepted the compensation without protest. As much as the Award was passed on 30-6-1996, notices issued under Section 12(2) of the Act were served on the petitioners on 25-10-1996, and, the petitioners have filed application seeking reference under Section 18 of the Act on 13-11-1996, there appears no reason at all for not referring the matter to the

Civil Court.

For the foregoing reasons, the order dated 30-1-2001 passed by the respondent in Proceedings Roc.No. 30-1-2001 is set aside, and, there shall be a direction to the respondent to refer the matter to Civil Court under Section 18 of the Land Acquisition Act, 1894, within a period of two months from the date of receipt of a copy of this order.

The Writ Petition is allowed to the extent indicated above. No order as to costs.

JUSTICE R. SUBHASH REDDY

DATE: 06-07-2007
MRR/Msnr.